

UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS

IN RE:

GREGORY E. BINGHAM	§	Case No. 03-44675-MDL
SHENELL Y. BINGHAM	§	Chapter 13
DEBTORS	§	
*****	§	
FAIRBANKS CAPITAL CORP. as servicing agent for DLJ MORTGAGE CAPITAL, INC.	§	
Movant	§	
V.	§	A HEARING WILL BE HELD FEBRUARY 6, 2004 AT 10:00 A.M.
GREGORY E. BINGHAM and SHENELL Y. BINGHAM, Debtors and DANIEL E. O'CONNELL, Trustee, Respondents	§	

NOTICE OF HEARING ON RELIEF FROM STAY

On JANUARY 8, 2004, a motion was filed, seeking relief from the automatic stay of 11 U.S.C. 362. The Court has set the preliminary hearing on the motion for:

Date: FEBRUARY 6, 2004

Time: 10:00 A.M.

Courtroom: COURTROOM 10B, 10TH FLOOR

Address: 515 RUSK, HOUSTON, TEXAS 77002

If you object to the filing of the stay, no later than five (5) working days before the hearing you must:

1. File with the Clerk an affidavit stating that:
 - a. You have conferred with the movant in a good faith effort to reach an agreement, with the dates and times of the conferences,
 - b. The efforts were unsuccessfull, and
 - c. A hearing is required.
2. File with the Clerk your written answer opposing the motion; include:
 - a. The particular grounds for the opposition under Federal Rules 8(b) and 11;
 - b. The identity of your interest in the property;
 - c. The provable value of the property and equity after deduction of all

encumbrances;

d. Attach copies of your affidavit of conferences and the motion to your answer.

3. Serve a copy of your written answer on the movant at:

HUGHES, WATTERS, & ASKANASE, LLP
1415 Louisiana, 37th Floor
Houston, Texas 77002-7354

To the Movant: A copy of your motion along with the location, date and time the hearing is set must be served within 24 hours. Proof of service including names of those served, date, and method of service shall be filed with the clerk. Service shall comply with BLR 4001(a).

DEFENSES; FORM OF DENIALS. *A party shall state in short and plain terms his defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies... Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a party or a qualification of an averment, he shall specify as much of it as is true and material and shall deny only the remainder... [H]e may do so by general denial subject to... Rule 11*

PROOF OF SERVICE:
MOTION FOR RELIEF FROM THE AUTOMATIC STAY OF AN ACT AGAINST
REAL PROPERTY OF 11 U.S.C. § 362

FEDERAL RULE OF CIVIL PROCEDURE 8(b):

On behalf of Movant, I certify that I am more than 18 years of age, and I served a copy of the motion for relief from stay with the attached notice of hearing on this the 8th day of JANUARY, 2004 by first class, U.S. Mail, postage pre-paid to all creditors and parties in interest as shown below:

DEBTORS
GREGORY E. BINGHAM
SHENELL Y. BINGHAM
7321 ROHBELL
HOUSTON TX 77016

DEBTORS' ATTORNEY
CHRISTOPHER T. MORRISON
2100 W. LOOP S. STE 900
HOUSTON TX 77027

TRUSTEE
DANIEL E. O'CONNELL
P.O. BOX 13
LAPORTE TX 77572-0013

PARTIES REQUESTING NOTICE:
NONE

Respectfully submitted:

/S/ Jennine Hovell-Cox

Carolyn A. Taylor TBA #08526800/FIN 1290
Dominique Varner TBA #00791182/FIN 18805
Jennine Hovell-Cox TBA #24002313/FIN 21775
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Attorney for Movant